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## BUDGET UNIT BRIEF – FY 2019

Fiscal Services Division

July 1, 2018



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Ground Floor, State Capitol Building

Des Moines, Iowa 50319

515.281.3566

### Office of the State Public Defender

#### Purpose and History

The United States and Iowa Constitutions require an indigent criminal justice defendant and indigent juveniles to be provided with legal counsel at no initial cost to the client. Iowa has two methods to provide this legal counsel: public defenders and private attorneys. A judge determines if a person is indigent, based on statute, and appoints a public defender. If a public defender is unable to take a case, the judge appoints a private attorney. Costs of legal assistance are assessed against the indigent defendant or other indigent party as a component of court costs per Iowa Code section 815.9(3). The costs of legal assistance are assessed only to the extent of the indigent person's reasonable ability to pay.

Before July 1, 1987, indigent legal counsel costs were paid by the counties, and local public defenders were county employees. The General Assembly transferred indigent legal counsel expenses to the State beginning in FY 1988, as the last major component of court reorganization. Court reorganization transferred the majority of expenses for the Judicial Branch from counties to the State General Fund, for the purpose of property tax relief, from FY 1983 to FY 1988.

Counties still maintain a "base" of expenses for juvenile proceedings. The statewide base is approximately \$1.6 million, as determined by Iowa Code section 232.141. The State assumes all costs for indigent juvenile cases once the county base expenditure is reached.

The General Assembly appropriated funds to the Judicial Branch in FY 1988 for the costs of indigent defense. The General Assembly transferred the program to the State Public Defender's Office in FY 1989. The General Assembly has made certain changes to the process since FY 1989 for the purpose of cost containment.

#### Public Defender Offices

Polk County serves as the administrative office, the Appellate Defender Office (legal representation to indigent convicted criminals for appeals), and the Special Defense Unit (SDU — formerly known as the Civil Commitment Unit for Sexual Predators), and provides statewide services. The State Public Defender created a Wrongful Conviction Division within the SDU to focus on postconviction relief matters within the existing budget and FTE position authority in 2015. There is also a Deposition Unit in the Polk County Courthouse. One secretary coordinates depositions of witnesses in indigent criminal defense cases and arranges for the transport of indigent defendants from the Polk County Jail to the Courthouse for depositions. The State Public Defender has administrative authority over local public defender offices.

Eighteen local public defender offices located in 13 cities have been established; these offices serve all 99 counties. Local offices handle all Class "A" felony cases in all 99 counties. Woodbury, Polk, and Black Hawk counties have two offices each, one primarily for juvenile justice services and one for adult offenders. The juvenile offices also provide counsel to indigent adults when conflicts exist.

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#### More Information

Office of the State Public Defender: [spd.iowa.gov](http://spd.iowa.gov)  
LSA Staff Contact: Laura Book (515.725.0509) [laura.book@legis.iowa.gov](mailto:laura.book@legis.iowa.gov)

The State Public Defender is responsible for indigent juvenile cases. Local offices provide juvenile justice system services in 29 counties. Public defenders or private attorneys provide legal representation in Child In Need of Assistance, families in need of assistance, emancipation, delinquency, juvenile mental health commitments, juvenile by-pass hearings, and termination of parental rights proceedings.

**Gideon Fellowships**

The General Assembly created four Gideon Fellowships in Iowa Code section 13B.12. Fellowships are two-year appointments; individuals must graduate from law school and pass the bar exam before beginning employment with the Office. Gideon Fellows may work in local offices, the State Public Defender's Office, the SDU, or the Appellate Defender's Office.

**Funding**

The State General Fund appropriations total approximately \$59.6 million, split between the Office of the State Public Defender (43.9%) and the Indigent Defense Fund (56.1%). The county base funding is added into the Indigent Defense Fund budget. The Indigent Defense Fund pays private attorneys for representing indigent defendants. The Fund also pays for expert witnesses, court reporters for depositions, private investigators, and other service providers for the benefit of indigent defendants or indigent parties.

**Related Statutes and Administrative Rules**

Iowa Code chapters [13B](#) and [815](#)  
Iowa Administrative Code [493](#)